

AMENDED IN SENATE JULY 20, 2001

AMENDED IN ASSEMBLY MAY 2, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 800

Introduced by Assembly Member Wesson

(Principal coauthor: Assembly Member Chan)

**(Coauthors: Assembly Members Cedillo, Chavez, Diaz, Firebaugh,
Frommer, Goldberg, Koretz, Liu, Longville, Lowenthal,
Oropeza, Reyes, Romero, Salinas, Steinberg, and Thomson)**

(Coauthor: Senator Escutia)

February 22, 2001

An act to add Section 12951 to the Government Code, relating to employment discrimination.

LEGISLATIVE COUNSEL'S DIGEST

AB 800, as amended, Wesson. Employment: Workplace language policies.

Existing provisions of the California Fair Employment and Housing Act define and prohibit various discriminatory employment practices.

This bill would make it an unlawful employment practice for an employer to adopt or enforce a policy that prohibits the use of any language in the workplace unless the policy is justified by ~~an overriding~~ business necessity, as ~~specified~~ *defined*, and prescribed notice of the policy *and consequences for violation of the policy* is given to employees. The bill would ~~authorize any employee affected by a policy in violation of the bill to bring a civil action for equitable relief and would also require the court or the Fair Employment and Housing~~

~~Commission, as the case may be, to award \$5,000 penal damages to any aggrieved employee wrongfully subjected to a policy in violation of the bill also make a statement of legislative intent regarding its provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *In enacting Section 2 of this act, it is the intent*
2 *of the Legislature to statutorily implement the constitutional*
3 *protections provided by Section 8 of Article I of the California*
4 *Constitution, that no person may be disqualified from entering or*
5 *pursuing a business, profession, vocation, or employment because*
6 *of national or ethnic origin, among other factors, while also*
7 *recognizing the statement of policy provided by Section 6 of Article*
8 *III of the California Constitution, that English is the official*
9 *language of California.*

10 SEC. 2. Section 12951 is added to the Government Code, to
11 read:

12 12951. (a) It is an unlawful employment practice for an
13 employer, as defined in subdivision (d) of Section 12926, to adopt
14 or enforce a policy that limits or prohibits the use of any language
15 in any workplace, unless ~~all~~ *both* of the following conditions exist:

16 ~~(1) The policy specifies the precise times and circumstances~~
17 ~~during which the language restrictions are required to be observed.~~

18 ~~(2) All employees subject to the policy are notified in writing~~
19 ~~at least 60 days in advance of the implementation of the policy.~~
20 ~~Each new employee shall be provided a copy of the policy, as it~~
21 ~~then exists, upon his or her acceptance of employment. An~~
22 ~~employment manual of the employer shall include the policy. The~~
23 ~~written notification shall include a description of all of the~~
24 ~~potential sanctions and other consequences for violation of the~~
25 ~~policy, including any available exceptions.~~

26 ~~(3) The policy is justified by an overriding legitimate business~~
27 ~~necessity that it is essential for the safe and efficient operation of~~
28 ~~the business, the policy directly and effectively fulfills the business~~
29 ~~purpose it is designed to serve, and there exists no alternative~~
30 ~~employment practice that would substantially accomplish the~~
31 ~~same business purpose with a less discriminatory effect.~~

~~(b) (1) In addition to the remedies otherwise provided in this part, the court or the commission, as the case may be, shall award damages in the amount of five thousand dollars (\$5,000) to each aggrieved employee wrongfully subjected to a policy in violation of this section.~~

~~(2) An action for equitable relief may be brought against an employer that adopts or enforces a policy in violation of this section in a court of competent jurisdiction by any employee subject to the policy, regardless of whether the employee speaks a language subject to the language restrictions of the employer's policy.~~

(1) The language restriction is justified by a business necessity.

(2) The employer has notified its employees of the circumstances and the time when the language restriction is required to be observed and of the consequences for violating the language restriction.

(b) For the purposes of this section, "business necessity" means an overriding legitimate business purpose such that the language restriction is necessary to the safe and efficient operation of the business, that the language restriction effectively fulfills the business purpose it is supposed to serve, and there is no alternative practice to the language restriction that would accomplish the business purpose equally well with a lesser discriminatory impact.